

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Case No. S-2546

PETITION OF SUSAN AND JEREMY SYMINGTON

OPINION OF THE BOARD

(Public Hearing Date: December 2, 2002)
(Effective Date of Opinion: March 13, 2003)

Case No. S-2546 is an application for a special exception pursuant to Section 59-G-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

Pursuant to the authority contained in Section 59-A-4.125 of the Montgomery County Code, the Board referred the application to the Hearing Examiner for Montgomery County to conduct a public hearing. The hearing was held on December 2, 2002, and on December 16, 2002, the Hearing Examiner issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 9, Block 2, Bannockburn Subdivision, located at 6310 Owen Place, Bethesda, Maryland, in the R-60 Zone.

Decision of the Board: Special Exception granted, subject
to conditions enumerated below.

The Board of Appeals considered the Report and Recommendation at its Worksession on March 5, 2003. The Board finds that the special exception conforms to the development standards of the zone as follows:

Development standard	Required/ Allowed	Provided	Compliance
Maximum Building Height	35 feet	35 feet	Yes
Minimum Lot Area	6000 s.f.	9820 s.f.	Yes
Minimum Width at Front Building Line	50 feet	70.5 feet	Yes
Minimum Front Yard Setback	25 feet	20.5 feet with	Yes, with variance

		previously granted 4.5 foot variance	
Minimum Side Yard Setback	7 feet	12 feet, 17 feet	Yes
Minimum Rear Yard Setback	Min. av. 20 feet No point < 15 feet	60 feet	Yes
Maximum Building Coverage	35%	5.6%	Yes
Maximum Floor Area for Accessory Apartment	1200 s.f.	501.125 s.f.	Yes

On a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., Chairman in agreement, the Board voted to adopt the Report and Recommendation, and **grant** the special exception subject to the following conditions:

1. The Petitioners are bound by their testimony and exhibits of record, including Exhibit Nos. 1, 3 and 6, to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.
2. The accessory apartment must be maintained in compliance with the Montgomery County Housing Code, including, but not limited to the building modifications identified as items 2 and 3 in Exhibit No. 11.
3. The number of occupants in the accessory apartment shall be limited, according to the Montgomery County Housing Code and based upon the square footage of the apartment.
4. The Petitioners must occupy one of the dwelling units at the subject property, and may receive compensation for only one dwelling unit.
5. The special exception is granted to the Petitioners only.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Donald H. Spence, Jr.

Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 13th day of March, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.